

OPENING STATEMENT
of
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on the
FY 2000 BUDGET REQUEST FOR THE BUREAU OF INDIAN AFFAIRS
before the
COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE
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Introduction

Good morning, Mr. Chairman and Members of the Committee.

MISSION AND OBJECTIVES

The Bureau is the primary agency of the Federal Government charged with the responsibility to administer Federal Indian policy and to fulfill the Federal trust responsibility for American Indian Tribes, Alaska native villages and Tribal organizations. Federal Indian policy and the trust responsibility are derived from the special legal and political relationship between the Tribes and the Federal Government.

This unique (legal and political) relationship is rooted in American history. Much of Federal Indian policy evolves around this "special" relationship which is often broadly expressed in terms of legal duties, moral obligations and expectancies that have arisen from the historical dealings between Tribes and the Federal Government. In the narrowest sense, the special relationship is described as a trust relationship between a trustee and the beneficiary. The evolution of the trust doctrine over time is primarily the result of U.S. Supreme Court decisions. The Court's literal references to a "guardian-ward" relationship in several cases has served as the conceptual basis for the existence of the trust relationship doctrine today. While the Supreme Court decisions fell short of defining all the attributes of an enforceable trust responsibility, the U.S. Constitution itself suggests the Nation's implicit decision to place Indian affairs under Federal control. See, e.g., Article I, §2, cl. 3 which expressly delegates to "*the Congress . . . the power...to regulate commerce with foreign nations, and among the several states, and with Indian tribes.*"

As a source of Federal power, the Congress set the basic framework of Federal Indian policy in enacting the Trade and Intercourse Acts passed between 1790 and 1834. The central policy of the Acts was to subject all interaction between Indians and non-Indians to Federal control. The Acts prohibited non-Indians from acquiring Indian lands, except with the specific approval of the Congress. Trading with Indians was made subject to Federal regulation. The underlying objective of this early Federal policy was to protect Indians against incursions by non-Indians, since exploitation of Indians was one of the major causes of fighting and conflict between Indians and non-Indians on the western frontier. In fact, the Secretary of War was established in 1784 with its primary mission to "negotiate treaties with the Indians" and with the armed militia at the disposal of Indian commissioners. Over the next 50 years, laws regulating trade between non-Indians and Indians were added to the books and a network of Indian agents and subagents was established.

When trade restrictions proved ineffective in maintaining peaceful relations between Indians and their neighbors, Federal Indian policy evolved into systematic forced removal of Indian groups

from choice eastern lands to the wilderness west of the Mississippi. The Indian Removal Act of 1830 institutionalized the forced removal of Indians. The most notable removal occurred among the Five Civilized Tribes who were taken from their homes in the southeastern states and marched along the infamous “Trail of Tears” to what is now Oklahoma.

By 1849, with the creation of the Department of Interior (DOI), the Bureau passed from military to civil control, and its primary mission became “civilizing” the Indian people by training them for farming or trades. During this period, the wardship principle developed as those Indians who cooperated were protected and fed, while those who were intractable were “harassed and scourged without intermission”. The General Allotment Act of 1887, the intent of which was to assimilate the Indian by giving him individual ownership, institutionalized the continuing efforts to civilize Indians. In the nearly 50 years of the allotment period, Indian land holdings were reduced from more than 136 million acres to less than 50 million acres in 1934 when the policy was completely abandoned.

In response to the Meriam Report, the Congress passed the Indian Reorganization Act of 1934. This brought a halt to the allotment policy and created a foundation for Tribal self-government. Although Tribes were urged to adopt American-style elected democratic governments, in practice the Bureau continued to direct and influence Tribal affairs to a degree greater than was consistent with notions of self-government.

To expedite assimilation, the Congress shortly thereafter passed several bills terminating the special Federal relationship of Indian Tribes with the United States. Twelve termination acts were passed by the Congress between 1954 and 1962, affecting about a dozen Tribes and several hundred small bands and groups in Oregon and California. The tragic results forced the Federal Government to abandon termination, to de-emphasize its custodial functions, and to focus greater efforts on the development of both human and natural resources on Indian reservations. In 1970, President Nixon called for self-determination of Indian people without the threat of termination of the trust relationship over Indian lands. Since that date, self-determination has been the basis of Federal-Indian policy.

Today, the Bureau provides services directly, or through Self-Determination contract, grant and compact agreements with Tribes, to more than 1.2 million American Indians and Alaska Natives in 31 states. The scope of Bureau programs is extensive and covers virtually the entire range of state and local government services:

- elementary, secondary and post-secondary education
- construction and facilities operation and maintenance
- social services
- law enforcement
- judicial courts
- business loans
- land and heirship records
- Tribal government support
- forestry
- agriculture and range lands development
- water resources
- fish, wildlife and parks
- roads
- housing
- adult and juvenile detention facilities
- irrigation and power systems

More importantly, the Bureau's programs are funded and operated in a highly decentralized manner with more than 90 percent of all appropriations expended at the local level with an increasing amount operated by Tribes and Tribal organizations under contracts or self-governance compacts. In addition, the Bureau administers more than 43 million acres of Tribally-owned land, more than 11 million acres of individually owned land held in trust status and 443,000 acres of Federally-owned land.

The Bureau is charged with the primary responsibility for administration of Federal programs for Federally recognized Tribes, and for carrying out the trust responsibility emanating from treaties, the U.S. Constitution, laws, court decisions and other agreements with American Indian Tribes and Alaska Natives. The Bureau has the primary requirement, at law, to serve on an identified constituent group.

In the last two centuries, the Congress has passed more Federal laws dealing with Indian Tribes and Alaska Natives than any other group of people in the United States. While the Snyder Act, the Indian Self-Determination and Education Assistance Act of 1975 and the Indian Education Amendments of 1978 provide the primary budgetary authorities, numerous statutes, court decisions, treaties and other authorities (including those passed in the early 1800's regulating trade with Indians) continue to guide the Bureau's mission and administration. The diversity of these mandates frequently requires the Bureau to balance the inherent conflicts and problems created by more than 200 years of shifting and evolving Federal-Indian policy.

The Bureau's most basic responsibilities are its trust obligations and facilitating Tribal self-determination. However, while the protection of trust resources is a fundamental responsibility, Tribal communities struggling to meet the basic needs of their communities must compete for the same limited resources the Bureau uses to protect trust resources. The Bureau's success relies on judiciously balancing these competing mandates.

Organization

The Bureau of Indian Affairs has two services components reporting to the Assistant Secretary-Indian Affairs:

The *Deputy Commissioner for Indian Affairs* has line authority over 12 Area Offices, 83 Agency offices, three subagencies, six field stations, and two irrigation project offices. The Deputy Commissioner provides program direction and support through the Directors for the Offices of Tribal Services, Trust Responsibilities, Law Enforcement, Economic Development, Management and Administration, Indian Gaming, and the Facilities Management and Construction Center.

The *Director of the Office of Indian Education Programs* supervises 26 education line officers stationed throughout the country and two post-secondary schools. During the 1997-98 school year, the Office of Indian Education Programs supported the operation of 115 day schools, 56 boarding schools, and 14 dormitories which house Indian children who attend public schools.

The Bureau's headquarters offices are located in Washington, D.C. and Albuquerque, New Mexico. The Bureau's organization and regions are outlined in the justifications. As a highly decentralized organization, nearly 95 percent of Bureau's staff work is performed in schools, Area and Agency offices, and other field locations.

In FY 1996, the Office of Trust Funds Management was transferred from the Bureau to the Office of Special Trustee pursuant to *Public Law 104-134* and Secretarial Order 3197.

At the end of FY 1998, the Bureau's total employment was 9,687 full-time equivalents.

The People We Serve

The Bureau's programs serve communities that face great challenges. According to the 1990 census, the American Indian population increased to 1,937,391, four times the population reported in 1960. While most of this increase is due to an increase in self-identification, a large portion is the result of a natural population increase. Based on this rapid rate of growth, the Census Bureau estimates that the American Indian population will reach 4.3 million, representing just over 1 percent of the population, by the year 2050.

Geographically diverse, almost half of American Indians reside on approximately 300 reservations and other restricted and trust lands located throughout the United States. Reservations can vary in size from a few acres, such as the rancherias in California, to the 17.5 million-acre Navajo reservation. Approximately 63 percent of American Indians reside in urban areas - half of whom are concentrated in a relatively small number of cities. According to the 1990 census, more than one-half of the American Indian population lived in just six states: Oklahoma, California, Arizona, Alaska, Washington and New Mexico.

From 1970 to 1980, the American Indian population increased by 28 percent, and added 22 percent in the 1980's. The American Indian population is relatively young as reported by the 1990 census:

	American Indians	U.S. Population
Under 5 Years	9.7%	7.3%
Under 18 Years	34.2%	25.6%

The census also reports that the median age of American Indians is 26 years, compared to 33 years for the population at large. This young population is in part the result of mortality rates that are higher for American Indians than for the U.S. population. Cardiovascular disease is the leading cause of mortality among American Indians. The second leading cause of mortality is homicide, suicide, accidents, and alcohol-related deaths primarily affecting Indians in their teens through mid-20's. It is estimated that alcohol-related deaths among American Indians are four times greater than the U.S. average.

By any socioeconomic measure, American Indians trail the general U.S. population. According to the 1990 census, an American Indian's family median income was \$21,619 annually compared to \$35,225 for the U.S. population. The per capita income in 1989 was \$4,478 for American Indians residing on all reservations and trust lands, compared with \$8,328 for all American Indians.

More significant is the comparison of 1980 to 1990 census data, and socioeconomic trends which indicate that American Indians are slipping farther behind the U.S. population. In 1979, 28 percent of American Indians were living below the poverty level compared to 12 percent of the U.S. population. By 1989, 31 percent of American Indians were living in poverty compared to 13 percent of the U.S. population. Other socioeconomic indicators reveal the following:

	American Indians	U.S. Population
High School Graduates	65.5%	75.2%
4 or More Years of College	9.3%	20.3%

Single Parent Households	35.8%	21.4%
Unemployment	14.4% ¹	6.3%

According to research, two factors account for the decline in American Indians' overall income. While American Indian men's educational progress has improved with tangible results, it did not contribute to a relative gain in income, because non-Indian men also improved their skills and education. The U.S. economy contributed to this situation because the least skilled and least educated were rewarded less and found it harder to remain employed. Since American Indian men were disproportionately represented, the overall income of American Indian men fell. (American Indian women witnessed increased incomes; however, this was largely attributable to an increase in annual hours worked.) In other words, improvements in education levels or labor market experiences of American Indians had little impact on gains in relative incomes.

In 1990 dollars, Federal spending for Indian programs peaked in 1979 at a total of \$4.4 billion. By 1989, Federal expenditures fell to \$2.5 billion. Since employment in Indian Country has historically relied on Federal jobs and Tribal jobs resulting from contracting of Federal programs, the decline in Federal expenditures is another important factor in the increased poverty levels among American Indians.

In summary, American Indians are younger and have higher levels of poverty, unemployment, single parent families, fertility and mortality than the U.S. population at large. Tragically, trends are deteriorating for this highly vulnerable population.

Tribal self-determination relies on strong Tribal self-governance and self-sufficiency. However, numerous obstacles defined by popular public opinion and misconceptions of Indians present Tribal leaders, managers and their members with seemingly insurmountable challenges hindering the pursuit of strong and stable governing institutions, economic development and human capital development. Today, the Bureau plays a critical role in removing obstacles to building and promoting Tribal self-determination.

For example, the Bureau's implementation of the Self-Determination Act has allowed the Tribes to exert increased control over their own development goals and programs. It is undeniable that helping Tribes improve the quality of life for their members will require substantial investments in, and prudent management of, Tribal government infrastructure, community infrastructure, education, job training and employment opportunities and other components of long term, sustainable development.

FY 2000 BUDGET SUMMARY

The 2000 budget request for the Bureau is \$1,902,054,000 in current appropriations, an increase of \$155,626,000 above the 1999 Enacted level. The budget stresses the resources Tribes need to provide basic reservation programs and develop strong and stable governments, ensure accreditation of Bureau schools, address critical infrastructure needs, and meet the Secretary's trust responsibilities. The Bureau continues to keep administrative costs low; more than 9 of every 10 dollars appropriated to the Bureau is provided directly to programs on Indian reservations. The request allows the Bureau to attain its goals which are designed to meet the commitment to American Indians and Alaska Natives as outlined in its Strategic Plan and annual performance plans.

¹ This figure includes the roughly 1/3 of all Indians living on-reservations and the roughly 2/3 living off-reservation where economic conditions are generally more favorable.

The FY 2000 budget request for the Bureau seeks to maintain core existing programs on behalf of our trust responsibilities and commitments to facilitate self determination for American Indians and Alaska Natives. While the Bureau has evolved in its role as trustee for the American Indian and Alaska Natives from the paternalism of the 1800's to its role today as partner, Tribes continue to turn to the Bureau for a broad spectrum of critical and complex programs administered either by the Tribes or the Bureau - from an education system for more than 54,000 elementary and secondary students; to 28 Tribally Controlled Community Colleges; to law enforcement and detention services on more than 200 reservations; to social services programs for children, families, the elderly and the disabled; to management of the forest, mineral, fishery and farmland resources on trust land; to the maintenance of more than 25,000 miles of roads on rural and isolated reservations; to economic development programs in some of the more depressed areas in the nation; to the implementation of legislated land and water claim settlements; to the replacement and repair of schools; and to the repair of structural deficiencies on high hazard dams. The joint Trust and Federal responsibilities are daunting as the Bureau strives to uphold the President's commitment to the American Indian and Alaska Native; Indian Country needs in every program are massive.

Thus, it should be recognized that while the protection of trust resources is a fundamental responsibility, Tribes struggling to meet the basic needs of their communities must compete for the same limited resources the Bureau uses to protect those trust resources. The Bureau must carefully balance these competing mandates within budgetary constraints imposed upon it. To say it is a challenge is an understatement.

Fulfilling the President's Executive Order 13084, the Bureau continues to meet and consult with Tribal Leaders on a Government-to-Government basis to address issues concerning Indian Self-Determination, trust resources, and other vital programs serving the Indian communities. At the FY 2000 National Budget Hearing attended by Tribal Leaders across the nation, Tribal Leaders continued to expound on the lack of sufficient funding currently provided by the Government to meet their most basic needs. The level of unmet needs as conveyed by the Tribes at the Hearing totaled over \$899,000,000.

No other bureau in the Department has the complexity and multitude of programs under one umbrella (i.e., land management to law enforcement to education) that the Bureau has in serving the needs of such a diverse consumer. Further, a February, 1998 study of budget trends by the Congressional Research Service concluded that Federal spending on Indian programs has declined in constant dollars since 1975. This trend has drastically increased the level of challenge to the Bureau to focus on core programs within the constrained budgetary climate while still addressing the needs in Indian Country and upholding its Trust and Federal responsibilities.

Restoring the American Community

On April 29, 1994, in a historic meeting with Indian leaders, President Clinton gave his pledge to fulfill the trust obligations of the Federal Government. Among President Clinton's goals for Indian Country on that momentous occasion were to help position Tribes to compete economically in the 21st century and to invest in Indian education.

Despite serious setbacks imposed by the Congress in 1996 and 1997, the President's commitment to Tribes was acknowledged by the Congress in the Bipartisan Budget Agreement, which designated the Bureau's Tribal Priority Allocations (TPA) as a protected program. The Congress honored the President's TPA requested funding level. However, the Senate raised concerns about the fairness of TPA base funding distributions, which ultimately resulted in the formation of the BIA/Tribal Workgroup on Tribal Needs Assessment.

The Bureau has yet to recover from the serious impacts imposed by the Congress on its appropriations level. While core funding was reduced along with personnel, the Bureau must continue to meet the existing requirements as the Trustee of the American Indian with limited manpower and financial resources. Yet, the Bureau is committed to fulfilling its mission and the Administration's commitment to Native Americans to meet the Federal obligations and responsibilities. The Bureau's FY 2000 budget request seeks to address the current situation in Indian Country while staying focused on our trust and Federal responsibilities which ultimately affects the Native Americans we are here to serve.

Tribes wishing to move forward in accepting the responsibility for delivery of program services and operations have been impeded in their efforts by the moratorium placed on new and expanded contracts, compacts, or grants as authorized under *Public Law 93-638*, as amended, in FY 1999. Thus tribes must continue to rely on the Government to provide the service(s). The FY 2000 request includes restoration of the Indian Self Determination Fund to continue the Administration's commitment to Native Americans on achievement of self-determination.

The Administration's record of partnership with the Tribes extend from strengthening the relationship between the Governments to increasing educational opportunities to promoting self-determination to protecting Tribal natural resources. Increases requested at the various levels by the Bureau are focused on programs which have direct impact on Native Americans and Indian Self-Determination, including contract support, small Tribes, law enforcement, and education. The increases requested are to strengthen the partnership which exists between the Tribes and the Bureau as we enter the next millennium.

Yet, it should be noted that the request does not include funds for the partial settlement agreement (approximately \$76 million) in the *Ramah Navajo Chapter v. Lujan* decision. [The agreement covers the "non-capped" years of 1989 through 1993, and is based on shortfalls of indirect cost funding attributable to non-Bureau organizations.] This is primarily due to the many pending decisions which must be made prior to seeking additional funds for the repayment to the Judgment Fund (which will initially pay the settlement costs as damages under 25 U.S.C. sec. 405m-l(a) by operation of law) such as the determination of which Federal agencies should be required to repay the Fund. Such decisions will have a direct impact on Bureau appropriations and its funding of such essential programs as TPA, as the Department has been informed that reimbursement of the Fund may begin the year after the original payment and possibly spread over more than one year. Resolution efforts will continue throughout FY 1999.

Pursuant to direction provided by the Department in its 5-Year Deferred Maintenance Plan, the Bureau has separated program funds where applicable for operations and maintenance (i.e., Special Programs and Pooled Overhead, Facilities Operation and Maintenance and Other Recurring Programs, Education Facilities Operation and Maintenance) to illustrate separate funding for each specific component. This separation of programmatic function will allow for clearer presentation and more accountability.

Following Congressional report language in FY 1999, law enforcement funds have been identified in the various programs throughout the Bureau's budget, i.e., Self Governance Compacts and Consolidated Tribal Government Program (under Other Aid to Tribal Government), and have been consolidated into the Special Programs and Pooled Overhead, Law Enforcement Initiative program.

OPERATION OF INDIAN PROGRAMS

For FY 2000, the total request for Operation of Indian Programs is \$1,694,387,000, an increase of \$110,263,000 over the FY 1999 Enacted level.

Tribal Priority Allocations (TPA)

TPA provides the principal source of funds for local units of Tribal Government, most of which are small and lack independent resources to meet the increasing costs of Tribal government operations. Because of Congressional funding levels in 1996 and 1997, Tribal governments are falling increasingly behind in their ability to maintain services to Indian communities and families. Tribes depend on the TPA budget activity for basic necessities and services such as child welfare, scholarships, Tribal courts, natural resource management, and other programs critical to improving the quality of life and the economic potential of the reservations. The Congress has given the Tribes the flexibility to prioritize the limited funds among TPA programs according to their unique needs and circumstances. TPA supports the goals of Indian self-determination by providing Tribes with the choice of programs provided as well as the means of delivery, either by the Tribe or the Bureau.

Beginning with FY 1998, TPA comprises nearly half of the Bureau's operating budget. Increased funding in TPA is consistent with the Bureau's Strategic Plan and Annual Performance Plan. For FY 2000, the TPA activity is funded at \$716,139,000, an increase of \$17,131,000 over the FY 1999 Enacted level, which will help Tribes address some of the unmet needs in these basic programs. Shortfalls in these programs have become particularly serious with the reductions in this activity since 1995.

Program increases proposed in this budget submission include \$2,058,000 for New Tribes to support 8 new Tribes as they begin to establish viable Tribal government operations. Federal recognition, supervision and support over some Tribes was terminated by an Act of Congress. Others may not have become Federally recognized because they made no treaty with the United States prior to 1871 when treaty-making was prohibited by the Congress; or they may have negotiated a treaty which was not ratified by the Senate. A Federal court ruled in 1975 that the United States has a trust responsibility to existing Tribes, regardless of whether the Government has acknowledged that responsibility by past Federal actions or previous recognition of the Tribe.

An increase of \$5,000,000 is requested for the Indian Self Determination Fund to provide funds for new and expanded programs contracted under the authority of *Public Law 93-638*, as amended. The moratorium imposed by the Congress for FY 1999 on any new or expanded contracts, compacts or grants under the 638 authority stalled the ability of the Bureau to fulfill its mission of promoting self-determination on behalf of Tribes. While the Bureau sought other avenues of providing program funds to Tribes through such mechanism as cooperative agreements, the impact of the moratorium was felt nationwide not only by the Tribes, but by the Bureau. In the effort to support Tribes in determining their future to decide which Federal programs they wished to operate themselves, the moratorium in effect halted such action. Tribes in FY 1999 could not proceed with taking over the responsibility of Government programs serving their members thereby allowing the Government to remain the chief responsible party for providing such services. The requested increase of \$5.0 million will allow the Bureau to get back on track with supporting and promoting the role of Tribes to operate Government programs which serve their membership.

An increase requested for Contract Support will provide \$6,447,000 over the 1999 Enacted level. In FY 1998, the Bureau was able to provide only 80.34 percent of contract support needs, which has resulted in significant concern, anger and hardship with Tribes throughout Indian Country. Tribes are discussing the possibility of retrocession of programs back to the Bureau because appropriations are not sufficient to meet the rates as negotiated between the Tribes and the Office

of the Inspector General. Given the downsizing at the Central, Area and Agency level that resulted from the severe budget reductions in FY 1996, the Bureau has neither the staff nor the funding to resume Tribally-operated programs. The end result of retrocession would be no services provided to Indian families and communities, which is in direct conflict with the President's commitment of self determination to Tribes. Given the level of budget reductions and increasing populations in Indian communities throughout the country in recent years, Tribes are challenged every day to maintain even level services.

An increase of \$2,565,000 is requested for Tribal Courts, a necessary component to ensuring the success of the *Presidential Initiative on Law Enforcement in Indian Country*. In FY 1999, the Congress provided a \$20.0 million increase for the *Presidential Initiative* to address the woefully inadequate law enforcement resources in Indian Country. With this first year investment in the multi-year *Initiative*, it opens the door to halting the escalating crime rates in Indian Country. Yet, while Bureau and Tribal law enforcement personnel take the criminals off the street, insufficient funds are available to handle the increased demand for judicial services to keep the criminals off the street. Funding for Tribal Courts goes hand in hand with ensuring that Indian Country law enforcement efforts are strengthened by adequate court systems.

An increase of \$3,000,000 is proposed for Small Tribes to support the operation of viable Tribal Governments in the State of Alaska. The requested funds will go entirely to small Tribes in the State of Alaska to move those Native Alaskans toward the Task Force recommended minimum level of funding of \$200,000. An increase of \$2,048,000 is requested for Welfare Assistance geared towards its Tribal Work Experience Program (TWEP) component. TWEP programs are administered by the Tribes for eligible general assistance recipients to provide these Indian individuals with the resources and means to gain proper work experience and job skills needed to successfully compete in the job market. It is an investment in recipients today to move them towards self sufficiency tomorrow.

An increase of \$2.0 million is requested for Adult Care Facility Rehabilitation to bring 7 adult long-term care facilities on the Navajo Reservation to standard condition. Once the standard is attained, the facilities are eligible for funding of their operation and maintenance costs from the State Medicare, Medicaid, and other programs. The initial investment of \$2.0 million will save approximately \$10.0 million in the long-term for the Bureau.

In FY 2000, Bureau will continue to operate as a highly streamlined and decentralized agency with maximum resources going to Tribal programs. The Bureau anticipates that more than half of the FY 2000 operating budget will be spent directly by Tribes that elect to operate various Bureau programs under self-determination contracts, grants, or self-governance compacts once the present moratorium expires.

Since the founding of the Nation, the Congress has funded specific Indian education programs in response to treaty requirements and Federal statutes. Current Indian Education programs are governed by a number of laws including the Snyder Act, the Johnson O'Malley Act, the Elementary and Secondary Education Act, the Tribally Controlled Community Colleges Act, the Tribally Controlled Schools Act, the Education Amendments of 1978, Goals 2000 and the Improving America Schools Act. Collectively, these laws are aimed at ensuring quality education for Indian youth and improving the long-term employment and economic opportunity on reservations.

Other Recurring Programs

The prominent theme for the new millennium described by the President is the education of our children. The Bureau is responsible for the only major domestic elementary and secondary education system operated by the Federal Government. As such, it is incumbent that this system reflects the high standards President Clinton has set for all education. In support of this Presidential priority, the Bureau's FY 2000 budget request includes a significant investment in Indian education. The request for School Operations, which will fund schools and dormitories serving more than 53,000 elementary and secondary students in 23 States, is \$503,568,000, a program increase of \$27,482,000 over the FY 1999 Enacted level. The increase will ensure that schools can deliver quality education and provide safe and adequate transportation for an estimated increase in enrollment. Increases are also proposed in facilities operations, facilities maintenance, and administrative cost grants to encourage the continuation of schools going into grant status and under Tribal control.

The budget increases operating grants to the 28 Tribally controlled community colleges by \$7,100,000 over FY 1999. The colleges have been successful in providing Indian youth with college degrees and eventual professional employment. They also promote entrepreneurship on reservations.

An additional \$500,000 is requested for Bennett Freeze Housing to provide replacement homes for needy Navajo families living within the former Bennett Freeze area; \$1,013,000 is requested for Irrigation Operations and Maintenance to conserve water and operate and maintain water delivery systems in a safe, economical, beneficial and equitable manner; and \$250,000 is requested to manage Columbia River Fishing Sites built by the Army Corps of Engineers to be managed by the Bureau.

An increase of \$1.0 million is requested to assist Tribes in the return of the bison to Indian homelands and for the prudent development and management of bison herds and habitat on Indian reservations. Bison are sacred to American Indians and represent a powerful symbol of America and its heritage as a Nation.

Non-Recurring Programs

The budget includes trust investments crucial to program performance in the out years. The request level for the Bureau's environmental management program is \$9,809,000, an increase of \$3 million more than appropriated in FY 1999, to begin to address an estimated \$200 million backlog of environmental cleanup work in Indian communities throughout the country. [The Bureau consolidated the existing Waste Management program into Environmental Management as they are focused on the same purpose]. The EPA has demonstrated a vigorous interest in the Bureau's environmental compliance in recent years and has directed its enforcement actions at Bureau locations. The request level will provide the resources for the Bureau to conduct baseline assessments of all Bureau facilities and operations by the end of FY 2002. An additional \$1,247,000 is requested for endangered species to increase the number of Federally listed threatened and endangered species as well as support Tribal participation in species recovery. An additional \$1,100,000 is requested for the Navajo-Hopi Settlement Program to provide services in areas that have been under served as a result of the Navajo-Hopi disagreement. Other program increases include \$4,002,000 for Water Rights Negotiation, \$1,000,000 for Federal Energy Regulatory Commission re-licensing activities.

Other Programs

An additional \$400,000 is proposed for the establishment of the Office of Alcohol and Substance Abuse Prevention to help stem the flow of alcohol abuse and illegal drugs in Indian Country. An increase of \$900,000 is requested for a post secondary school, the Southwestern Indian

Polytechnic Institute, to handle the increased need for resources due to its rising curriculum and enrollment.

CONSTRUCTION

The request for the Bureau Construction appropriation is \$174,258,000, with \$108,377,000 for Education Construction. The Bureau will continue to make progress in eliminating the unobligated balances in Construction facilities projects. Increased emphasis on Tribal contracting for projects will be supported by the Bureau's Facilities Management and Construction Center awarding and approving officials until the Tribes and Agencies are fully trained to take over the construction contracting challenge.

The Replacement School Construction program funds replacement of older, unsafe, and dilapidated schools on reservations following a Congressionally approved priority list which is currently limited to 16 schools. In FY 2000, \$39,859,000 is requested to complete construction of the Seba Dalkai School (Arizona) and the Fond du Lac Ojibway School (Minnesota). An increase of \$30 million is requested in FY 2000 for school construction to allow Tribes to utilize the funding to defease qualified school construction bonds or other taxable bonds to replace or repair Bureau-funded elementary and secondary schools.

For the second year, the budget requests no new funding for Public Safety and Justice construction within the Bureau request. New detention centers on reservations will be funded in the Department of Justice's appropriation following the *President's Initiative on Law Enforcement in Indian Country*. The budget requests \$22,057,000 for the correction of structural deficiencies of high hazard dams on Indian lands. The total cost for irrigation construction is estimated at \$1.5 billion. The Bureau is responsible for 117 of the over 400 high and significant hazard dams on the Department's Technical Priority List. These dams pose significant potential loss of life or, at a minimum, significant economic damage with liability resting with the Federal Government, both on and off Indian reservations and for both Indian and non-Indian communities. In FY 2000, the Bureau will begin correction of high risk problems on dams in Arizona, Idaho, New Mexico, South Dakota and Montana.

INDIAN LAND AND WATER CLAIM SETTLEMENTS AND MISCELLANEOUS PAYMENTS TO INDIANS

This program provides payments to meet Federal requirements for legislated settlements. The FY 2000 budget request includes \$28,401,000 for payments for settlements resolving long standing Tribal claims to water and lands. A large share of the FY 1999 program continues to be dedicated to the Ute Indian Rights Settlement, in order to move closer to the funding schedule set forth in the Settlement Act.

SPECIAL INITIATIVES

LAW ENFORCEMENT IN INDIAN COUNTRY

LAW ENFORCEMENT INITIATIVE

FY 2000 represents the second year of the multi-year *Presidential Initiative on Law Enforcement in Indian Country*, a joint effort by the Bureau and the Department of Justice (DOJ), to combat the rising crime rates in Indian Country to fulfil the Presidential directive to the Secretary of the Interior

and the United States Attorney to work with Tribal Leaders to improve public safety in Indian Country.

Pursuant to the Final Report of the Executive Committee for Indian Country Law Enforcement Improvements, significant investment by the Government is necessary to stem the increasing problem of crime in Indian Country. In simple terms, current resources are inadequate; continued infusion of manpower and financial resources are necessary to ensure that Indian communities receive the same quality and quantity of law enforcement services as their non-Indian counterparts.

The initial investment in FY 1999 for the Initiative provides the foundation from which the Bureau can begin addressing the shortages in law enforcement, but much more resources are needed to adequately respond to the concerns as outlined in the Final Report. The requested increase of \$20.0 million continues to build on this foundation while complementing the efforts of the DOJ to maximize the use of the Federal dollar.

TRIBAL COURTS

Going hand in hand with increasing the resources for law enforcement in Indian Country is the ability of Tribal Governments to handle the accompanying increase in caseloads; the FY 2000 increase requested is \$2,565,000. More than 250 Tribal justice systems and courts of Indian offenses (serving 40 Tribes) are supported by Bureau funds. These Tribal courts must face the same issues State and Federal courts confront every day, such as child sexual abuse, alcohol and substance abuse, gang violence, and violence against women. Tribal court systems have historically been under funded and understaffed. With the *Presidential Initiative on Law Enforcement in Indian Country* underway to improve law enforcement services in Indian Country, it is essential that additional support be provided to Tribal courts as it is expected with the effort to clean up crime, Tribal courts caseloads will increase dramatically. Tribal courts must have the capacity to adjudicate the resulting criminal cases and resolve disputes. This effort complements the Department of Justice's efforts to provide one-time (competitive) grant support to Tribes.

In addition, *Public Law 103-176*, the Indian Tribal Justice Act, recognizes the situation in Indian Country to improve its judicial function to assist in keeping law and order for its constituency. The Bureau's requested increase will also focus on providing initial funding to Tribes for implementation of the Act.

ALCOHOL AND SUBSTANCE ABUSE

Another factor in the efforts to reduce crime is the influence and effect of alcohol and substance abuse in Indian Country. An additional \$400,000 is requested in FY 2000 to establish the Office of Alcohol and Substance Abuse to provide training and technical assistance on prevention efforts and implementation by Tribes of their Tribal Action Plans regarding programs designed to reduce the incidents of alcohol and substance abuse in their communities.

EDUCATION

REPLACEMENT SCHOOL CONSTRUCTION

Eight-two percent of the Bureau's building square footage is education space; the majority of the buildings are old and often in poor condition. With the Bureau responsible for the only major domestic elementary and secondary education system operated by the Federal Government, it is vital that we provide adequate facilities for this Nation's Indian school children to obtain an education. Research has demonstrated that placing instructional and residential programs in facilities that do not meet health and safety codes distract from the educational program. A point made by the President

in Executive Order 13096, which calls for creating educational opportunities for American Indian and Alaska Native students in our nation.

Under the Order, the President called on us to give special attention to five goals: (1) improving student achievement in reading and mathematics; (2) increasing high school completion and post-secondary attendance rates; (3) reducing the influence of long-standing factors that impede educational performance, ...; (4) creating strong, safe, and drug-free school environments conducive to learning; and, (5) expanding the use of science and educational technology. All goals relate directly to the research denoted previously that the environment – the surroundings – play a key role in which the level of learning this Nation’s children can achieve is dependent on adequate school facilities. Health and safety threats such as leaking roofs, peeling paint on the walls, overcrowded classrooms, and inadequate heating and/or air systems hinder the ability of children – our Nation’s future leaders – to focus on their educational studies. It is widely recognized that it is a given challenge that children’s attention spans are limited; therefore, we must provide the necessary resources we can to alleviate these threats from their classrooms.

To this end, the FY 2000 request provides for a requested level of \$39,859,000 for replacement of two schools - Seba Dalkai and Fond du Lac Ojibway - on the existing priority list for school replacement. As the President has stated in his call for modernization of our schools, it is through construction that our Nation will begin to meet our generation’s historic responsibility to create 21st century schools. Schools may be operated directly by the Bureau or operated by Tribal organizations under the contracting authorities of *Public Law 93-638*, as amended, or *Public Law 100-297* grant.

Record enrollments in our schools compound the existing problem of aging schools buildings. Short-term solutions such as portable classrooms will not be sufficient to respond to the growing population of school age children; recent studies have illustrated that the record enrollment seen nationwide follows a period of steady growth in student populations mainly due to children of the “Baby Boom” generation. It is expected that the growing trend will continue and short-term solutions will no longer be a viable option.

The Bureau’s request is an intricate part of the President’s education agenda which seeks to reduce class size and help communities renovate and build new schools. The request is also part of the Department’s Safe Visits to Public Lands, which includes the 5-Year Maintenance and Capital Improvement Plan.

As a participant in the Plan, the Bureau is moving forward to eliminate its code and standard deficiencies, currently estimated for school-related facilities alone at approximately \$743.0 million; the Bureau’s total facilities backlog for education and non-education facilities is nearing the \$1.0 billion mark. Projects included in the Plan outline the comprehensive strategy of the Department to address the most critical needs in the Bureau’s backlog of construction and maintenance requirements. It is the most in-depth analysis and display of the enormity of the dire situation facing the Bureau in trying to maintain its facilities for the consumers we serve. It is a comprehensive list, causing the Bureau to reassess and validate its many facilities located throughout the Nation to fully capture the challenge we face in maintaining our responsibilities for Bureau-owned facilities and providing for safe and health environments for our constituency. The requested funding level of \$38,859,000 for replacement school construction, a key factor in the success of the President’s revitalization of Indian education, will greatly assist in reducing the mounting backlog of construction needs.

SCHOOL BOND INITIATIVE

An increase of \$30 million is requested in FY 2000 for school construction to allow Tribes to utilize the funding to defease qualified school construction bonds or other taxable bonds to replace or repair

Bureau-funded schools. These funds may be made available to Tribes and/or Tribal organizations who will defease qualified school construction bonds by ensuring the repayment of principal to bond holders. This proposal is part of the Administration's school modernization initiative to provide school repairs and replacement in needy public school districts throughout the country. Funding for additional school construction or repairs is proposed as part of the second year of the Administration's facilities restoration initiative. These funds emphasize the Administration's commitment to the long-term stewardship of Federal lands and facilities.

SCHOOL OPERATIONS

As conveyed through the many Executive Orders issued by the President this past year, education is a key focus and high priority of the Administration. The President reiterated this priority by calling upon our nation to prepare Americans for a lifetime of learning:

"It is time to show our children and the world that America truly values education. Let us make every school across America a shining, modern temple of learning – a place where a computer is as common in the classroom as a chalkboard, where classes are small enough for teachers to teach and children to learn, where students are inspired to look to the future with hope and confidence. Our children deserve nothing less."

President Bill Clinton
September, 1998

As the only nationwide school system operated by the Federal Government which provides basic educational programs to the American Indian population, we echo the President's statement that "Our children deserve nothing less". To this end, the Bureau has requested an increase of \$27.5 million for its Education programs that will benefit the increasing American Indian student population from their residences to the classroom instruction to the classroom itself. The requested increase is vital to the Bureau if we are to ensure that every child obtains a solid foundation of education.

ENVIRONMENTAL CLEANUP

Consistent with Presidential initiatives, the Bureau request includes a \$3.0 million increase for environmental clean-up in Indian Country. The Bureau can begin making a significant investment and strides forward in addressing the backlog of environmental cleanup work in Indian communities throughout the Nation. This funding level will also allow the Bureau to respond to the aggressive enforcement efforts of the Environmental Protection Agency (EPA) on the Bureau's environmental compliance efforts. To date, EPA has already directed enforcement actions at Bureau locations. While it has stated its willingness to work with the Bureau to become compliant with existing laws, EPA nonetheless gives no exceptions to the mandates (or its accompanying fines for non-compliance) based on lack of funds. Thus, the \$3.0 million increase will allow the Bureau to continue its compliance efforts in an aggressive manner while reducing the long-term costs to the Government by avoiding costly EPA fines.

SECRETARY'S TRUST MANAGEMENT IMPROVEMENT PROJECT

The Bureau proposes in its budget request to transfer a total of \$5.068 million in base funds to the Office of the Special Trustee (OST) to begin implementation of the *High Level Implementation Plan* for the Trust Management Improvement Project (TMIP). Increased funding for the Bureau's responsibilities under the Plan are being sought in OST's FY 2000 request. The Bureau has been working with the OST to develop the Plan with its 13 major components. The Bureau will continue to work with the OST to improve the Department's administration and management of its trust responsibilities.

GOVERNMENT PERFORMANCE AND RESULTS ACT

As mandated by the Government Performance and Results Act (GPRA) of 1993, the Bureau has submitted its second year annual performance plan as a component of the Bureau's Strategic Plan and the Department of Interior's strategic plan. The Bureau's second year annual performance plan continues to support its strategic goals and will serve as a benchmark in the overall success of the Bureau to achieve goals set forth in the Strategic Plan. Funding increases requested throughout the Bureau's submission are vital to achieving the goals during its second year of performance. The Bureau has made modifications in its first year annual performance plan to refine its long-term and short-term goals pursuant to the allowance under GPRA for minor adjustments to a strategic plan in the annual performance plan; the second year plan follows this refinement.

JOINT BIA/TRIBAL WORKGROUP ON TRIBAL NEEDS ASSESSMENT

Pursuant to Congressional direction given in the FY 1998 appropriations (Senate Report 105-56), as well as other Congressional action attempted in the 105th Congress, the Congress has clearly conveyed its concern for the distribution of Tribal Priority Allocations (TPA) funds to Federally recognized Tribes in our Nation. Under Congressional directions, the Bureau has been directed to provide options on other methods of distributing TPA funds based on the identified need of a Tribe; however, it provided no definition of "need" or other standards in which to measure need. Yet, it is recognized that both Tribal governments and the Bureau must accurately identify and gather data to support funding requests for Tribal programs.

In response, the Bureau has joined with Tribal Leaders representative of the 12 Areas of the Bureau across the Nation to address the issue of funding need relative to the distribution of TPA funds. In January, 1998, this joint effort was formalized through the establishment of the BIA/Tribal Workgroup on Tribal Needs Assessment. As TPA is the core funding provided by the Bureau to Tribes to assist in the operation of their tribal governments, this is a crucial and precedent-setting task undertaken by both the Bureau and the Tribes. The Workgroup recognizes that the task at hand must include consideration of factors that are historical, objective, and to some degree, subjective in nature. Further, it is recognized that while the Congress wishes to base distribution of TPA funds solely on a needs basis, it should be noted that while many Tribes view current Federal funding as inadequate to meet their needs, they also view Federal funds as representative of the Federal trust responsibility and commitment to the American Indian and Alaska Native. Thus, it is a daunting task facing the Workgroup to comply with the Congressional directive.

The Workgroup, comprised of Bureau and Tribal representatives, includes both policy and technical members. To address the daunting task, the Workgroup established four key focus areas to assist in reaching conclusion of possible options of fund distribution under TPA. The four key areas are as follows:

- National budget overview of Indian programs:
 - Identify consistent criteria (by program) to assess current "unmet need";
 - Identify and compare data to national standards; and,
 - Develop and collect data through the establishment of a national database "clearinghouse" to assist in addressing Congressional concern.
- TPA:
 - Identify consistent criteria (by program) of current TPA funding levels; and,
 - Develop an alternative TPA distribution formula based on these needs and factors.
- Contract Support Costs:

- Develop data to support funding justification; and,
 - Develop long-term solutions for such costs as a result of the *Ramah* case and other recent litigation.
- Scope and Definition of Federal obligation to Indian Tribes, i.e., based on legal status, treaties, statutes, and Executive Orders.

Efforts by the Workgroup continue as it strives to develop funding alternatives that will address Congressional concerns; the Workgroup has targeted conclusion of its efforts within the early months of the First Session of the 106th Congress.